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Approved For Release 2004/05/05 : CIA-RDP84B00890R000300030036-5

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OLC 81-0417/3

3 April 1981

DD/A REGISTRY

FILE: *Legal*

MEMORANDUM FOR: See Distribution

FROM:

Assistant Legislative Counsel

SUBJECT: H.R. 316, "Limitation on Government
Recordkeeping Requirements and Actions
Act of 1981"

Reference: OLC 81-0417, 24 February 1981

1. The purpose of this memorandum is to inform you of developments concerning Subject legislation.

2. This Office has received your formal comments re Subject, and based on these concludes that, although the intent of the legislation remains vague, enough potential problems have been cited to warrant CIA opposition to enactment of the legislation.

3. Contact also has been made with Department of Justice, Office of Legislative Affairs attorneys who have indicated that Justice, too, will oppose the Bill's enactment.

4. An Agency views letter will be circulated in the near future to all distributees for coordination.

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1 - OLC Subject (File: Limitation on Government
Recordkeeping)

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OLC 81-0417
24 February 1981

MEMORANDUM FOR: See Distribution

STAT FROM:

[REDACTED]
Chief, Legislation Division, OLC

SUBJECT: H.R. 316, "Limitation on Government
Recordkeeping Requirements and
Actions Act of 1981"

1. The Office of Management and Budget has asked for our official views on subject legislation which is being forwarded to you for review and comment. H.R. 316 was recently introduced by Representative Jack E. Hightower (D., TX) with, you will note, the bipartisan cosponsorship of sixty five other House Members including the House Majority Leader, Jim Wright of Texas and Jack Brooks, also of Texas, the Chairman of the House Government Operations Committee, which has been given jurisdiction over the Bill.

2. The Bill, which would have government-wide effect (note definition of "agency", section 2(b) which covers CIA), would establish a type of 4 year "statute of limitations" with regard to any agency "cause of action" or any agency effort to require any person with whom the agency deals to "maintain, prepare, or produce any record" regarding a "transaction or event" that that person may have had with the government agency in question.

3. While on its face the Bill appears not to impact negatively on intelligence equities, it is being forwarded for your review and comment with a view to advising this Office as to whether any provision of the Bill would be debilitating from your perspective. Please address all comments to [REDACTED] Assistant Legislative Counsel, no later than COB Friday, 20 March 1981.

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Attachment

See Distribution on next page.

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97TH CONGRESS
1ST SESSION

H. R. 316

To provide that a Federal agency may not require that any person maintain records for a period in excess of four years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after four years from the date of the act which is the subject of the enforcement action or fine, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1981

Mr. HIGHTOWER (for himself, Mr. STENHOLM, Mr. ANTHONY, Mr. ARCHER, Mr. BEARD, Mr. BOWEN, Mr. BRINKLEY, Mr. BROOKS, Mr. BURGNER, Mr. COLLINS of Texas, Mr. PHILIP M. CRANE, Mr. ROBERT W. DANIEL, JR., Mr. EDWARDS of Oklahoma, Mr. DE LA GARZA, Mr. DERWINSKI, Mr. DORNAN of California, Mr. DUNCAN, Mr. ENGLISH, Mr. ERDAHL, Mr. FISH, Mr. FORSYTHE, Mr. FROST, Mr. GARCIA, Mr. GOLDWATER, Mr. GRAMM, Mr. GRISHAM, Mr. GUYER, Mr. SAM B. HALL, JR., Mr. HANCE, Mrs. HOLT, Mr. HOPKINS, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mr. JEFFRIES, Mr. JONES of North Carolina, Mr. KAZEN, Mr. KEMP, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEATH of Texas, Mr. LOEFFLER, Mr. LOTT, Mr. LUJAN, Mr. MARRIOTT, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. NELSON, Mr. PAUL, Mr. PICKLE, Mr. RAILSBACK, Mrs. SCHROEDER, Mr. SENSENBRENNER, Mr. SHELBY, Mr. SHUMWAY, Mr. STANGELAND, Mr. SYNAR, Mr. WAMPLER, Mr. WHITE, Mr. WHITEHURST, Mr. WILSON, Mr. WINN, Mr. WRIGHT, and Mr. ALEXANDER) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To provide that a Federal agency may not require that any person maintain records for a period in excess of four years, and a Federal agency may not commence an action for

enforcement of a law or regulation or for collection of a civil fine after four years from the date of the act which is the subject of the enforcement action or fine, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Limitation
5 on Government Recordkeeping Requirements and Actions
6 Act of 1981".

7 SEC. 2. (a) Except as otherwise provided by the Inter-
8 nal Revenue code of 1954 or any regulation promulgated
9 under such Code—

10 (1) an agency may not require, or enforce any law
11 or regulation to the extent that such law or regulation
12 requires, that any person maintain, prepare, or produce
13 any record (other than a record relating to a dangerous
14 material), after the expiration of four years after the
15 date of the transaction or event which is or is to be the
16 subject of such record; and

17 (2) an agency may not commence an action, suit,
18 or proceeding against any person for enforcement of a
19 law or regulation or for collection of any civil fine,
20 penalty, or forfeiture, after four years from the date of
21 the act or failure to act which is the subject of such

1 action, suit, or proceeding, or fine, penalty, or forfeit-
2 ure.

3 ~~(b)~~ For purposes of this section—

4 (1) “agency” has the meaning given such term in
5 section 551(1) of title 5, United States Code;

6 (2) “dangerous material” means—

7 (A) hazardous waste, as defined in section
8 1004 of the Resource Conservation and Recovery
9 Act of 1976 (42 U.S.C. 6903); and

10 (B) byproduct, source, or special nuclear ma-
11 terial, as defined in section 11 of the Atomic
12 Energy Act of 1954 (42 U.S.C. 2014);

13 (3) “person” includes and individual, corporation,
14 partnership, and an association; and

15 (4) “regulation” means the whole or part of a
16 statement by an agency regarding the applicability or
17 enforceability of a provision of law.

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